

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

**CASE NO.: 7:07-CR-111-BO-2**

**THIS CAUSE** is before the court on a Motion of the Defendant to allow credit on his probationary sentence for time spent supervised by the Office of Probation while this matter was pending on appeal. The Court having reviewed the matter and the motion before it, makes the following:

## **FINDINGS OF FACT**

1. On May 1, 2008 judgment was entered in this matter placing the Defendant on supervised probation for a period of five (5) years.
2. On June 12, 2008 the Office of the United States Attorney for the Eastern District of North Carolina filed notice of appeal as to the May 1, 2008 judgment.
3. On August 6, 2008, the Office of the United States Attorney for the Eastern District of North Carolina filed a Motion to Stay the Execution of the May 1, 2008 judgment pending the outcome of the appeal. This motion was granted on August 8, 2008.
4. Defendant Carter was not incarcerated at the time the stay of execution was granted and had been on pre-trial release being supervised by the Office of Probation prior to the entry of judgment. As a practical matter Defendant remained supervised by the Office of Probation even after the stay of execution was granted.

6. On August 5, 2009 following the decision of the Untied States Court of Appeals for the Fourth Circuit, Defendant Carter was re-sentenced to a term of supervised probation for five (5) years.

7. Defendant Carter has been supervised by the Office of Probation since May 2008 however, given the stay of execution and the re-sentencing, the Office of Probation now calculates his release date from probation as August 4, 2014.

8. Reports from the Office of Probation indicate Defendant Carter has complied with the terms of his probation.

9. Both the Office of Probation and the Office of the United States Attorney for the Eastern District of North Carolina inform this Court they have no objection to Defendant Carter being given credit for the time he was supervised by the Office of Probation while awaiting the outcome of the government's appeal.

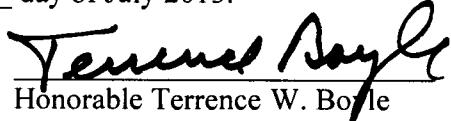
Based upon the forgoing Finding of Facts, this Court makes the following

#### **CONCLUSIONS OF LAW**

1. This Court has jurisdiction over this matter and the parties involved.

**WHEREFORE**, based upon the Findings of Fact and the Conclusions of Law, this Court thereby **ORDERS** that Defendant Carter be given credit for the time awaiting the outcome of the government's appeal on the probationary sentence imposed on August 5, 2009 and that the release date from the probationary sentence be August 5, 2013.

SO ORDERED, this the 28 day of July 2013.

  
Honorable Terrence W. Boyle